

**BOARD OF REAL ESTATE APPRAISERS
BOARD MEETING MINUTES – December 6, 2005**

MEMBERS PRESENT

Kenneth Charest
Bruce Bell
Walter Bowditch
Joseph Herlihy
William Dobrowolski
James Murphy

MEMBERS ABSENT

Daniel Shipley

OTHERS PRESENT

Carol Leighton, Administrator
Andrew Black, Assistant Attorney General
Kim Baker-Stetson, Licensing Clerk
Susan Greenlaw, Board Clerk

Location: Central Conference Room **Start:** 9:10 a.m. **Adjourn:** 6:50 p.m.

CALL TO ORDER

The meeting was called to order at 9:10 a.m.

AGENDA MODIFICATIONS

A motion was made by Walter Bowditch to add the following to the agenda; seconded by James Murphy. Unanimous.

- I. Proposed Letters of Guidance
 - A. #REA-227
 - B. #REA-230
 - C. #REA-233
 - D. #REA-253
- II. Correspondence
 - A. USPAP Q&A

OLD BUSINESS

Action on Minutes of November 1, 2005 Meeting

A motion was made by Walter Bowditch to approve the minutes of the November 1, 2005 meeting as written; seconded by James Murphy. Unanimous.

Action on Tabled Applications/Items

NEW BUSINESS

Hearings

The hearing in the matter of Betty A. Nelson (#REA-202) was called to order. Nelson was not present and not represented by an attorney. Assistant Attorney General Andrew Black

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represented the State in this matter. James Smith attended as Hearing Officer and counsel for the Board. Public deliberations were conducted at the close of the hearing.

A motion was made by Joseph Herlihy to find the licensee in violation of 32 M.R.S.A. §14014(1)(A); seconded by Walter Bowditch. Unanimous.

A motion was made by Walter Bowditch to order the following: (1) licensee shall pay costs of the hearing in an amount not to exceed \$300; (2) licensee shall pay a fine in the amount of \$1000; (3) license suspension for 180 days or until costs and fine are paid; (4) letter of reprimand to be retained in licensee's file for a period of five years; (5) licensee's file shall be flagged for non-renewal until conditions of the Decision are met; seconded by William Dobrowolski. Unanimous.

The hearing in the matter of Jane F. Cole (#REA-192) and Kendra Cole (#REA-193) was called to order. Jane and Kendra Cole were present and represented by attorney Gregory Orso. Assistant Attorney General Andrew Black represented the State in this matter. James Smith attended as Hearing Officer and counsel for the Board. Public deliberations were conducted at the close of the hearing.

A motion was made by Bruce Bell to find the licensees in violation of 32 M.R.S.A. §14014(1)(I); seconded by James Murphy. Unanimous.

A motion was made by Bruce Bell to find the licensees in violation of 32 M.R.S.A. §14014(1)(J); seconded by Walter Bowditch. Unanimous.

A motion was made by William Dobrowolski to dismiss violation of 32 M.R.S.A. §14014(1)(G) by violating a rule adopted by the Board, specifically Chapter 240(1) and USPAP Standard 1-1(b); seconded by Walter Bowditch. Bell, Bowditch, Charest, Dobrowolski voted in the affirmative; Murphy opposed. Motion carried.

A motion was made by James Murphy to find the licensees in violation of 32 M.R.S.A. §14014(1)(G), by violating a rule adopted by the Board, specifically Chapter 240(1) and USPAP Standard 1-1(c); seconded by Walter Bowditch. Unanimous.

A motion was made by James Murphy to find the licensees in violation of 32 M.R.S.A. §14014(1)(G), by violating a rule adopted by the Board, specifically Chapter 240(1) and USPAP Standard 2-1(a); seconded by William Dobrowolski. Unanimous.

Kendra Cole (#REA-193): A motion was made by Walter Bowditch to order the following: (1) Minimum 30-hour education to be agreed upon by the Complaint Officer to be completed within six months, not to be counted toward continuing education; (2) costs associated with the hearing in an amount not to exceed \$650 to be paid within six months; seconded by William Dobrowolski. Unanimous.

Jane Cole (#REA-192): A motion was made by William Dobrowolski to order the following: (1) Completion of minimum 30-hour education to be agreed upon by the Complaint Officer to be completed within six months, not to be counted toward continuing education; (2) costs associated with the hearing in an amount not to exceed \$650 to be paid within six months; seconded by James Murphy. Unanimous.

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The hearing in the matter of Shannon G. Mitchell (#REA-185) was called to order. Mitchell was not present and not represented by an attorney. Assistant Attorney General Andrew Black represented the State in this matter. James Smith attended as Hearing Officer and counsel for the Board. Public deliberations were conducted at the close of the hearing.

A motion was made by William Dobrowolski to find the licensee in violation of 32 M.R.S.A. §14014(1)(G)(I)(J); seconded by Walter Bowditch. Unanimous.

A motion was made by Walter Bowditch to order the following: (1) \$1500 fine to be paid within six months; (2) costs associated with the hearing in an amount not to exceed \$700 to be paid within six months; (3) revocation of license; seconded by James Murphy. Unanimous.

Administrator's Report

Subcommittee Response to July 2005 Review:

Patrick Donahue Course Completion: Request granted. A motion was made by Walter Bowditch to approve reinstatement as a trainee; seconded by James Murphy. Unanimous.

Complaint Officer's Report

#REA-172: A motion was made by Joseph Herlihy to allow the licensee to make monthly payments of \$500 for the next 17 months effective December 15, 2005; seconded by James Murphy. Unanimous.

#REA-215: A motion was made by Bruce Bell to dismiss upon finding no violation of Board statute or rules; seconded by James Murphy. Bell, Bowditch, Charest, Dobrowolski, and Murphy voted in the affirmative; none opposed; Herlihy abstained. Motion carried.

#REA-234: A motion was made by Walter Bowditch to find grounds for violations of 32 M.R.S.A. §14014(1)(G)(I)(J); seconded by William Dobrowolski. Bell, Bowditch, Charest, Dobrowolski, and Murphy voted in the affirmative; none opposed; Herlihy abstained. Motion carried.

A motion was made by William Dobrowolski to offer a Consent Agreement to include the following: (1) Admission to violations; (2) \$1500 fine; (3) completion of minimum 30-hour basic appraisal course with exam, not to be counted toward continuing education; (4) minimum 15-hour USPAP course with exam, not to be counted toward continuing education; and (5) license suspension for a period of 6 months or until completion of all other requirements; seconded by James Murphy. Bell, Bowditch, Charest, Dobrowolski, and Murphy voted in the affirmative; none opposed; Herlihy abstained. Motion carried.

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Review and Action on Applications and Education

NAME	APPLYING TO	ACTION
APPLICANT #1	TEMPORARY LICENSE APPLICATION	<p><u>DEC 6 2005</u> – APPROVED. <u>DEC 6 2005</u> – APPLYING VIA RECIPROCITY WITH ILLINOIS</p> <p>NO RECIPROCAL AGREEMENT WITH ILLINOIS, BUT HIS RECORD WITH BOTH ILLINOIS AND THE ASC APPEAR TO BE CLEAN</p>
APPLICANT #2	<p>FORMER LICENSEE VIA RECIPROCITY, BUT DOES NOT QUALIFY FOR REINSTATEMENT</p> <p>LICENSE EXPIRED 12/31/2001</p>	<p><u>DEC 6 2005</u> – MOTION BY HERLIHY TO APPROVE; SECONDED BY DOBROWOLSKI. UNANIMOUS. <u>DEC 6 2005</u> – APPLYING VIA RECIPROCITY WITH WISCONSIN</p> <p>NO RECIPROCAL AGREEMENT WITH WISCONSIN, BUT HIS RECORD WITH BOTH WISCONSIN AND THE ASC APPEAR TO BE CLEAN – HAS TAKEN AN EXAM</p>
APPLICANT #3	<p>APPLYING FOR REINSTATEMENT</p> <p>LICENSE HISTORY: 03/28/1998 – TRANSITIONAL LICENSE 06/24/1991 – CERTIFIED GENERAL BY EXAM 12/31/2004 – LICENSE EXPIRED AND WAS NOT RENEWED</p>	<p><u>DEC 6 2005</u> – MOTION BY MURPHY TO APPROVE; SECONDED BY DOBROWOLSKI. UNANIMOUS. <u>DEC 6 2005</u> – IS WITHIN THE 2-YEAR WINDOW TO REQUEST REINSTATEMENT PER 32 MRSA §14025</p> <ul style="list-style-type: none"> • HAS SUBMITTED APPLICATION & APPLICATION FEE • ANTICIPATES COMPLETING 28 HOURS OF CE THIS MONTH • WILL NEED TO PAY 2004 RENEWAL AND LATE FEES IN THE AMOUNT OF \$350 • OTHER PROVISIONS BY BOARD??

Correspondence

New England Real Estate Journal Article (Oct./Nov. 2005): Board reviewed – no action necessary.

Next Meeting Scheduled for January 3, 2006

OTHER BUSINESS

A motion was made by Walter Bowditch to approve the proposed Letters of Guidance in case numbers REA-227, REA-230, REA-233, and REA-253; seconded by James Murphy. Bell, Bowditch, Charest, Dobrowolski, and Murphy voted in the affirmative; none opposed; Herlihy abstained. Motion carried.

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A motion was made by James Murphy to send a cease and desist letter to Donna Herring and Verle Jones regarding misleading advertisements; seconded by Walter Bowditch. Unanimous.

ADJOURN

Being no further board business the meeting was adjourned at 6:50 p.m.

Respectfully submitted,

Susan Greenlaw
Board Clerk